

### REMARKS

Claims 1-17 are pending in the application. Claims 1-3, 5-9, 11 and 13-17 stand rejected.

Applicants gratefully acknowledge the Examiner's indication that claims 4, 10 and 12 include allowable subject matter.

By the above amendment, claims 1, 9, 11, 16 and 17 have been amended and claims 10 and 12 have been canceled without prejudice. No new matter has been introduced by virtue of the claim amendments. Examiner's reconsideration of the claim rejections is respectfully requested in view of the above amendments and following remarks.

#### Claim Rejections - 35 U.S.C. § 102

(A) Claims 1 and 3 stand rejected as being anticipated by U.S. Patent No. 5,191,431 to Hasegawa et al. At the very least, claim 1 is patentably distinct and patentable over Hasegawa. For example, Hasegawa does not disclose or suggest *tracking the throughput of the data processing system to determine if the first compression rate provides a throughput that meets a predetermined throughput threshold*, as recited in claim 1. In fact, in formulating the anticipation rejection of claim 1, the Examiner has seemingly ignored this claim feature, and has failed to explain how such feature is taught by Hasegawa.

Although Hasegawa purportedly teaches a compression mode changeover where a compression system compresses digital video information at first and second compression rates, Hasegawa uses the different modes for the purposes of efficient time-divisionally multiplexing a tracking control signal with a compressed information signal while minimizing distortion of the reproduced signal and maintaining good tracking control (i.e., tracking of a rotary head) (see,

e.g., Col. 2, lines 5-11; Col. 4, lines 39-60; and Col. 6, lines 46-65). Hasegawa does not disclose or suggest tracking throughput of a data processing system and varying compression rate to maintain the throughput, as essentially claimed in claim 1.

Although reliance on Hasegawa is seemingly misplaced, Claim 1 has been amended to further clarify and undoubtedly distinguish over Hasegawa. As essentially claimed in claim 1, when the tracked throughput does not meet the predetermined throughput threshold, data is compressed using a second compression routine that provides a second compression rate greater than the first compression rate to increase the throughput of the data processing system to at least the predetermined throughput level.

In short, claim 1 is clearly distinct and patentable over Hasegawa. In addition, claim 3 is patentable over Hasegawa at least by virtue of its dependence from claim 1.

(B) Claim 11 stands rejected as being anticipated by U.S. Patent No. 5,982,723 to Kamatani et al. Although Applicants respectfully disagree with this rejection on both technical and legal grounds, claim 11 has been amended to include the allowable subject matter of canceled claim 12, solely for purposes of placing claim 11 in condition for allowance.

For at least the above reasons, withdrawal of the anticipation rejections is requested.

#### **Claim Rejections - 35 U.S.C. § 103**

The following obviousness rejections are asserted:

(A) Claim 2 stands rejected as being unpatentable over Hasegawa in view of U.S. Patent No. 6,104,389 to Ando;

(B) Claim 5 stands rejected as being unpatentable over Hasegawa in view of U.S. Patent No. 6,097,520 to Kadnier;

(C) Claim 6 stands rejected as being unpatentable over Hasegawa in view of Kamatani;

(D) Claims 7 and 8 stand rejected as being unpatentable over Hasegawa in view of U.S. Patent No. 6,487,640 to Lipasti;

(E) Claim 9 stands rejected as being unpatentable over Hasegawa in view of U.S. Patent No. 4,888,812 to Dinan et al. and U.S. Patent No. 5,159,336 to Rabin et al.;

(F) Claim 13 stands rejected as being unpatentable over Kamatani in view of Kulakowski;

(G) Claims 14 and 15 stand rejected as being unpatentable over Kamatani in view of Lipasti;

(H) Claim 16 stands rejected as being unpatentable over Hasegawa; and

(I) Claim 17 stands rejected as being unpatentable over Hasegawa, Dinan and Rabin.

With respect to claims 2 and 5-8, the above obviousness rejections (A)~(D) are based primarily on the teachings of Hasegawa as applied to claim 1. In this regard, these rejections are legally deficient at least by virtue of the Examiner's misplaced reliance on Hasegawa as applied to claim 1. In short, with further elaboration, claims 2 and 5-8 are patentable and non-obvious over the cited combinations of references for at least the same reasons given above for claim 1.

With respect to claim 9, the above obviousness rejection (E) has been rendered moot by incorporating the allowable subject matter of canceled claim 10 into claim 9.

With respect to claims 13-15, the above obviousness rejections (F) and (G) are rendered moot, as claims 13-15 depend from claim 11 which, as noted above, has been amended to be

placed in condition for allowance. Thus, claims 13-15 are allowable at least by virtue of their dependence from claim 11.

With respect to claim 16, the above obviousness rejection (H) is legally deficient for at least the same reasons given above for claim 1. In particular, claims 1 and 16 recite common subject matter that is not disclosed or even remotely suggested by Hasegawa.

Finally, with respect to claim 17, the above obviousness rejection (I) is believed to be rendered moot, as claim 17 has been amended to incorporate allowable subject matter as commonly recited in claims 9 and 10.

For at least the above reasons, withdrawal of the obviousness rejections is requested.

Early and favorable consideration by the Examiner is respectfully urged. Should the Examiner believe that a telephone or personal interview may facilitate resolution of any remaining matters, it is requested that the Examiner contact Applicants' undersigned attorney.

Respectfully submitted,



Frank V. DeRosa

Reg. No. 43,584

Attorney for Applicants

F. Chau & Associates, LLC  
130 Woodbury Road  
Woodbury, New York 11797  
TEL.: (516) 692-8888  
FAX: (516) 692-8889